

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:05CR3104
)	
v.)	
)	
MARIO GOLLIDAY,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

The court has been advised that the defendant seeks appointed counsel and wants his retained counsel, James Martin Davis, to withdraw from this case. The defendant has apparently asked his retained counsel to withdraw, but has been told that court-appointed counsel must enter an appearance before the motion to withdraw can be filed. This is incorrect.

When a defendant requests new counsel, his current counsel should file a motion to withdraw. Subject to the court's approval, the motion to withdraw is conditionally granted. Upon the entry of appearance by new counsel, the former counsel is deemed withdrawn from the case.

Although the correct procedure for seeking new counsel has not been followed in this case, I have determined that the defendant is entitled to appointed counsel, and I further find this counsel should be appointed without further delay.

IT THEREFORE HEREBY IS ORDERED:

1. The defendant's request for appointment of counsel is granted.
2. The Federal Public Defender for the District of Nebraska is appointed to represent the above named

defendant in this matter. In the event that the Federal Public Defender accepts this appointment, the Federal Public Defender shall forthwith file a written appearance in this matter. In the event the Federal Public Defender should decline this appointment for reason of conflict or on the basis of the Criminal Justice Act Plan, the Federal Public Defender shall forthwith provide the court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Criminal Justice Act Plan for this district.

3. The defendant's oral motion for withdrawal of his retained counsel, James Martin Davis, is granted, effective upon the entry of appearance of counsel appointed to represent the defendant.

DATED this 29th day of December, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge